

Grants

Public Assistance and Procurement Contracts

Jared Davis, DFPS Deputy Director of Purchased Client Services

And

Meghan W. Frkuska, DPS Managing Attorney, Contracting

Definitions

- Federal Grant and Cooperative Agreement Act of 1977
 - Procurement Contract: the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government
 - Public Assistance: the principal purpose of the relationship is to transfer a thing of value to the state or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government
 - Grants (no federal involvement)
 - Cooperative Agreements (extensive federal involvement)

Types of Federal Grants

- Grants are very diversified and agency and program specific
- Block grants: Money given for a fairly broad purpose with few strings attached (Child Care and Development Block Grant, TANF, Adult Social Services)
- Categorical grants: Money given for a specific purpose that comes with restrictions concerning how the money should be spent. There are two types of categorical grants:
 - Project grants (Discretionary Grants): Money states apply for by submitting specific project proposals (Justice and Mental Health Collaboration Program, Homeland Security, Foster Care Diligent Search, Land Grants, HUD Lead Reduction, Traffic Safety Grants)
 - Formula grants (Mandatory Grants): Money given to states according to a mathematical formula (Foster Care, Medicaid, Child Support, IDEA)

Governing Law

- OMB Circulars
 - Will frequently see references to OMB Circulars (was predecessor to CFR)
 - Might still need (if contract was awarded prior to December 26, 2014)
- Uniform Rule (2 C.F.R. Part 200)
 - Each federal agency can establish own version, so check with awarding agency
 - Subparts A-F
- Agency and Program Specific Laws
 - Enabling Legislation

Subpart B: General Requirements

- Applicability (understand what is applicable to your award, 2 C.F.R. Section 200.101)
- Exceptions to 2 C.F.R. Part 200 Requirements
- Supersession (supplants OMB Circulars)
- Effective Date (December 26, 2014)
- Conflicts of interest

Subpart C: Pre Award Requirements

- Applies to FEDERAL AGENCIES (but sometimes to pass-through entities!)
- Public Notice
- Notice of Funding Opportunity
- Specific Conditions (applies to pass-through entities).
- Suspension and debarment (applies to pass-through entities).

Subpart D: Post Award

- The non-federal entity is responsible for complying with all requirements of the federal award.
- Performance measurement
- Financial management
- Internal controls
- Payment
- Cost Sharing/Match
- Program Income
- Procurement Requirements
- Subrecipient vs. Contractor (previously referred to as Vendor)

Subpart E: Cost Principles

- Allowable
- Allocable
 - Direct Costs
 - Indirect Costs
- Reasonable

Subpart F: Audit Requirements

- Single Audit
 - SAO does Single Audit for State of Texas
- Only applies to Subrecipients

Common Grant Components

- Specified performance period
- Obligation to return unobligated balance
- Specific scope of work or enabling regulations
- Financial reports
- Detailed technical/progress report or other work product
- Right to audit
- Other contractual obligations (nonsupplanting, IP issues, etc.)

Clauses for a Contract

- Always consult with legal counsel
- Programmatic Grant Components
- Remedies for non-compliance
 - Disallowance
 - Clawback Provision
 - Off-setting
 - Non-monetary
 - Specific performance
 - Action Plan (discretion of contractor to correct)
- Closeout
- Common Federal and State Grant Regulations
- Federal and state assurances

State Grants

- Texas eGrants
- UGMS
- Uses the federal concept as a basis

Questions?

Email ctp@cpa.texas.gov

Or visit www.comptroller.texas.gov